

Redacted – For Public Inspection

April 1, 2016

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, GN
Docket No. 14-177, IB Docket Nos. 15-256 and 97-95; RM-11664; and WT
Docket No. 10-112

Dear Ms. Dortch:

EchoStar Satellite Operating Corporation, Hughes Network Systems, LLC and Alta Wireless, Inc. (collectively “EchoStar”) respectfully request that, pursuant to Sections 0.457 and 0.459 of the Commission’s rules, 47 C.F.R. §§ 0.457 and 0.459, the Commission withhold from public inspection and accord confidential treatment to Exhibit A of the attached ex parte filing (the “Redacted Exhibit”) submitted in the above referenced proceeding. This document contains sensitive commercial and technical information that fall within Exemption 4 of the Freedom of Information Act (“FOIA”).¹

Exemption 4 of FOIA provides that the public disclosure requirement of the statute “does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential.”² EchoStar is voluntarily providing this information “of a kind that would not customarily be released to the public” in order to respond to a request from the Commission staff with respect to the security of certain satellite communications equipment; therefore, this information is “confidential” under Exemption 4 of FOIA.³ Moreover, EchoStar would suffer substantial competitive harm if this information were disclosed.⁴

¹ 5 U.S.C. § 552(b)(4).

² *Id.*

³ *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

⁴ *See National Parks and Conservation Ass’n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

In support of this request and pursuant to Section 0.459(b) of the Commission's rules,⁵ EchoStar hereby states as follows:

- EchoStar seeks confidential treatment of Exhibit A to the attached ex parte letter filed in this proceeding. This Redacted Exhibit provides confidential technical information on the strategies used to address potential cybersecurity issues related to equipment used to provide satellite services.
- EchoStar is submitting this information in response to a request by Commission staff for information on the security of satellite services, a topic raised in the notice of proposed rulemaking that initiated this proceeding.⁶ EchoStar is also submitting a redacted version of this document for the public record.
- The Redacted Exhibit contains highly sensitive, confidential, and proprietary commercial and technical information, including information on strategies EchoStar has employed to safeguard specific satellite communications equipment against the threat of cyberattack. EchoStar treats such information as highly confidential and does not disclose it to third parties not involved in the operation of such equipment. The redacted information would not customarily be released by the persons from whom it is obtained and is therefore covered by Exemption 4 of FOIA when, as here, it is submitted by such persons to the Government.
- Release of the technical information contained in the Redacted Exhibit could compromise the security of EchoStar's equipment. This would not only endanger users of this equipment, but also harm EchoStar's competitive position in the satellite equipment manufacturing market.
- Information in the Redacted Exhibit is not generally available to the public and, to the best of EchoStar's knowledge, has not been disseminated to non-EchoStar personnel other than those who have purchased and/or are responsible for operating the relevant equipment.

For the foregoing reasons, EchoStar respectfully requests that the Redacted Exhibit be granted confidential status and be withheld from public inspection. If confidential treatment is not granted for all or any part of this confidential material, EchoStar requests that all non-redacted copies of this ex parte be returned to EchoStar.

⁵ 47 C.F.R. § 0.459(b).

⁶ See *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, Notice of Proposed Rulemaking, 30 FCC Rcd. 11878, ¶¶ 260-61 (2015).

If you have any questions, please do not hesitate to contact undersigned counsel.

Respectfully submitted,

/s/

William M. Wiltshire
Counsel for EchoStar Satellite Operating Corporation

Enclosure



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Dear Ms. Dortch:

On March 30, 2016, Jennifer A. Manner, Paul Kay, Graham Avis, George Choquette, and Dave Zatloukal on behalf of EchoStar Satellite Operating Corporation, Hughes Network Systems, LLC and Alta Wireless, Inc. (collectively "EchoStar") spoke by telephone with Jeffery Goldthorp and Ahmed Lahjouji of the Commission's Public Safety and Homeland Security Bureau to discuss the above-captioned proceeding.

During the call, we discussed how EchoStar has responded to the report prepared in 2014 by IOActive, Inc.¹ with respect to mobile devices operating in the L-band, as well as whether Hughes' broadband VSAT terminals operating in the Ka-band might have similar security characteristics. Specifically, we provided the information on Exhibit A hereto.

Sincerely,

/s/

Jennifer A. Manner
Vice President, Regulatory Affairs
EchoStar Satellite Operating Corporation
11717 Exploration Lane
Germantown, MD 20876
301-428-5893

cc: Jeff Goldthorp
Ahmed Lahjouji

¹ See Letter from Gregory F. Intoccia to Marlene H. Dortch, GN Docket No. 14-177, et al. (Feb. 26, 2016) (attaching a presentation and white paper by IOActive, both entitled "SATCOM Terminals – Hacking by Air, Sea, and Land").

EXHIBIT A

Redacted for Public Inspection